

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

HAROLD PECKENPAUGH,

Plaintiff,

v.

Civil Action No. _____

ALLIANT CAPITAL MANAGEMENT, LLC.,

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This is an action for actual and statutory damages brought in response to Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION AND VENUE

2. Jurisdiction of this court arises under 15 U.S.C. §1692k(d), 28 U.S.C. § 1331, and 28 U.S.C. § 1337.
3. Venue is proper in this district under 28 U.S.C. §1391(b) in that the Defendant transacts business here and the conduct complained of occurred here.

III. PARTIES

4. Plaintiff Harold Peckenpaugh is a natural person residing in the County of Erie and State of New York and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).
5. Defendant, Alliant Capital Management, LLC, (hereinafter "ACM") is a Domestic Limited Liability Company organized and existing under the laws of the State of New York and is a "debt collector" as that term is defined by 15 U.S.C. §1692a(6).
6. Defendant regularly attempts to collect debts alleged to be due another.
7. The acts of the Defendant alleged hereinafter were performed by its employees acting within the scope of their actual or apparent authority.

8. All references to "Defendant" herein shall mean the Defendant or an employee of the Defendant.

IV. FACTUAL ALLEGATIONS

9. That Plaintiff allegedly incurred a Lending Club personal loan debt. This debt will be referred to as the "subject debt."
10. That the subject debt arose out of a transaction in which money, services or property, ~~which was the subject of the transaction, was primarily for personal, family and/or~~ household purposes. As such, said debt is a "debt" as that term is defined by 15 U.S.C. §1692a(5).
11. Plaintiff allegedly defaulted on the subject debt.
12. That upon information and belief, Defendant was employed to collect on the subject debt.
13. In or about November 6, 2019, Plaintiff received a call from Defendant regarding subject debt. Defendant told Plaintiff that he was an arbitrator within the company and if Plaintiff did not pay his debt that they would garnish his wages.
14. That as a result of Defendant's acts Plaintiff became nervous, upset, anxious, and suffered from emotional distress.

V. CAUSE OF ACTION

15. Plaintiff repeats, re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 14 above.
16. The conduct of Defendant as described in this complaint violated the Fair Debt Collection Practices Act (15 U.S.C. §1692 et seq.) as follows:
- A. Defendant violated 15 U.S.C. §1692e, 15 U.S.C. §1692e(2), 15 U.S.C. §1692e(5), 15 U.S.C. §1692e(10), 15 U.S.C. §1692bf, 15 U.S.C. §1692f(1) and 15 U.S.C. §1692f(6) by stating that he was an arbitrator and threatening to garnish Plaintiff's wages if he did not pay the alleged subject debt despite not having the present legal ability to take such action.
17. That as a result of the Defendant's FDCPA violations as alleged herein, Plaintiff became nervous, upset, anxious and suffered from emotional distress.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against the Defendant for:

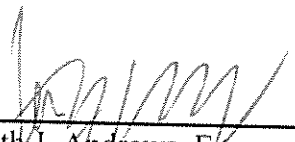
- (a) Actual damages;

- (b) Statutory damages for pursuant to 15 U.S.C. § 1692k.
- (c) Costs, disbursements and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k.
- (d) For such other and further relief as may be just and proper.

~~VI. JURY DEMAND~~

Please take notice that Plaintiff demands trial by jury in this action.

Dated: June 16, 2020



Seth J. Andrews, Esq.
Kenneth R. Hiller, Esq.
Law Offices of Kenneth Hiller, PLLC
Attorneys for the Plaintiff
6000 North Bailey Ave., Suite 1A
Amherst, NY 14226
(716) 564-3288
Email: sandrews@kennethhiller.com
khiller@kennethhiller.com